IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

LA.App..No. 1162 of 2002()

(LAR 2/95 OF ADDL.SUB COURT, KOTTAYAM)

APPELLANT: RESPONDENT

STATE OF KERALA

BY GOVT.PLEADER SRI.K.V.MANOJKUMAR.

RESPONDENTS: CLAIMANTS
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1. SRI.BALAKRISHNAN EMBRAN, RESIDING AT VALLAYIL MADATHIL, VELLOOR KARA, VAIKOM.(DIED)

2. B.AKHALLYA, W/O.BALAKRISHNA EMBRAN, RESIDING AT -DO- -DO-

3. B.RAMA RAO, S/O.BALAKRISHNA EMBRAN, RESIDING AT -DO- -DO-

4. SUNITHA, D/O.BALAKRISHNAN EMBRAN, RESIDING AT -DO- -DO-

5. SUPRIYA, D/O.BALAKRISHNAN EMBRAN, RESIDING AT -DO- -DO-

6. VELLOOR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.

(RESPONDENTS 2 TO 5 IN THE APPEAL ARE DECLARED AS THE LEGAL HEIRS OF THE DECEASED FIRST RESPONDENT AS PER ORDER DT. 19.1.2006 IN IA NO.193/06)

BY ADV. SRI.K.S.MENON
SRI.C.K.RAMAKRISHNAN
SRI.B.KRISHNA MANI

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.1162 OF 2002

Dated 30th October, 2007.

J U D G M E N T

Kurian Joseph, J.

C.M.P.No.4989/02 : This is a petition to condone the delay of 75 days in filing the appeal. On going through the affidavit, we find that there is no proper explanation for the delay.

It is seen that the acquisition is for the purpose of bus stand-cum-shopping complex in Velloor Grama Panchayat, Vaikom. The Land Acquisition Officer fixed the land value at Rs.8,801/- per Are. Though the claimants produced Exts.A1 to A4 documents, on a closer scrutiny, the reference court did not find any justifiable reason to adopt the value of the property covered by those documents. However, it was found that the basic document relied on by the State had no public road access whereas the property in this case had road access. In that view of the matter, the court proceeded further and examined the case for enhancement, and in the process, it was noted that the documents produced by the claimants could be referred to in order to appreciate the escalation of land value in the place. The Advocate Commissioner has also reported that important

institutions were around the place, like Panchayat office, Post Office, schools, temple etc. In view of the finding that the basic document cannot be fully relied on and that the acquired property stood in a better position, the reference court granted 60% enhancement over the value fixed by the Land Acquisition Officer. Learned Government Pleader submits that going by Ext.A1 itself, it can be seen that it is a better property compared to the acquired property and in Ext.A1, the value is only around Rs.11,000/- per cent. The land value as fixed by the reference court is only less than Rs.6,000/- per cent. In that view of the matter, we do not find any merit in the appeal as well. For all the above reasons, the delay petition as well as the appeal are dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

L.A.A. NO.1162 OF 2002

J U D G M E N T

Dated 30th October, 2007.